

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of Ohio on the following

☒ Trademarks or ☐ Patents. (☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO. XXXXXXXXXX	DATE FILED	U.S. DISTRICT COURT Northern District of Ohio
PLAINTIFF BCP Imports, LLC		DEFENDANT Traditions Jewish Gifts, Com, Inc
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 3,787,219		
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT SEE ATTACHED FOR PATENT CASE TERMINATION INFORMATION
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CLERK Geri M. Smith	(BY) DEPUTY CLERK Carlene Kinsey	DATE 3/9/2011
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

BCP IMPORTS, LLC
148 Main Street
Toledo, OH 43605

Plaintiff,

v.

TRADITIONSJEWISHGIFTS.COM, INC.
1850 N.W. 15TH Avenue, Suite # 220
Pompano Beach, Florida 33069

Defendant.

) Case No.:
)
) Hon. Judge:
)
) **COMPLAINT FOR TRADEMARK**
) **INFRINGEMENT AND UNFAIR**
) **COMPETITION**
) **JURY DEMAND**
)
)
)
)

Plaintiff, BCP Imports, LLC ("Plaintiff"), by and through its undersigned attorneys, for its complaint against Defendant Traditionsjewishgifts.com, Inc. ("Defendant"), alleges as follows:

NATURE OF THE ACTION

1. This is a civil action arising under the laws of the United States, specifically under 15 USC § 1125(a) (§ 43(a) of the Lanham Act) for trademark infringement and unfair competition.

PARTIES

2. BCP Imports, LLC is a limited liability corporation organized under the laws of the State of Ohio with its principal place of business at 148 Main Street, Toledo, Ohio 43605.

3. On information and belief, Traditionsjewishgifts.com, Inc. is a corporation organized under the laws of the State of Florida, having a place of business at 1850 N.W. 15TH Avenue, Suite # 220, Pompano Beach, Florida 33069.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 15 USC § 1121 (actions arising under the Lanham Act), 28 USC § 1331 (actions arising under the laws of the United States), 28 USC § 1338(a) (acts of Congress relating to trademarks), and 28 USC § 1338(b) (civil actions asserting a claim of unfair competition).

5. This Court has personal jurisdiction over Defendant. On information and belief, Defendant has conducted acts of infringement and unfair competition in this District.

6. Venue is proper in this District pursuant to 28 USC § 1391. On information and belief, Defendant is subject to personal jurisdiction in this District and the acts complained of herein take place within this District.

COUNT 1 – TRADE MARK INFRINGEMENT AND UNFAIR COMPETITION

7. Plaintiff sells uniquely shaped and brightly colored elastic bands under the trademark *Sillybandz*, which is the subject of U.S. Trademark Registration number 3,787,219 (a

copy of which is attached hereto as Exhibit A). Plaintiff's products are prominently labeled with the trademark "*Collect 'em, Trade 'em, Wear 'em.*"

8. Plaintiff's trademarks *Sillybandz* and "*Collect 'em, Trade 'em, Wear 'em.*" have become valuable indicators of the source and origin of Plaintiff's products.

9. Defendant owns the domain name [jewishsillybands.com](http://www.jewishsillybands.com) and the website at <http://www.jewishsillybands.com> which has prominently advertised "*Silly Bands*" products and has used the phrase "*Trade Them, Collect Them, Wear Them*" in conjunction with the sale of such products and has thus infringed Plaintiff's rights and committed acts of infringement of a registered trademark under 15 USC § 1114 (§ 32 of the Lanham Act) and acts of unfair competition under 15 USC § 1125 (§ 43 of the Lanham Act), as Defendant's activities are likely to cause confusion among the relevant public.

10. Defendant owns the domain name [traditionsjewishgifts.com](http://www.traditionsjewishgifts.com) and the website at <http://www.traditionsjewishgifts.com>. Defendant is using the term "*silly-bands*" in its website address at <http://www.traditionsjewishgifts.com/jewish-silly-bands.html> and is thus infringing Plaintiff's rights and committing acts of infringement of a registered trademark under 15 USC § 1114 (§ 32 of the Lanham Act) and acts of unfair competition under 15 USC § 1125 (§ 43 of the Lanham Act), as Defendant's activities are likely to cause confusion among the relevant public.

11. Defendant has used and is using meta tags or meta names "*Silly Bandz*" and "*Silly Bands*" in connection with its website to redirect consumers searching for genuine *Sillybandz* products to its website and is thus infringing Plaintiff's rights and committing acts of infringement of a registered trademark under 15 USC § 1114 (§ 32 of the Lanham Act) and acts of unfair competition under 15 USC § 1125 (§ 43 of the Lanham Act), as Defendant's activities are likely to cause confusion among the relevant public.

12. As a direct and proximate result of Defendants' infringement of Plaintiff's trademark, Plaintiff has suffered and continues to suffer damages to its profits, sales, and business.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and relief against Defendants and respectfully requests that this Court:

- A. Enter judgment for Plaintiff on all Counts of the Complaint;
- B. Find that Defendants have engaged in unfair competition in violation of 15 USC § 1125(a) (§ 43(a) of the Lanham Act);
- C. Pursuant to 15 USC § 1116 (§ 34 of the Lanham Act), temporarily, preliminarily and permanently enjoin, restrain and forbid Defendants, and all of Defendants' principals, servants, officers, directors, partners, agents, representatives, shareholders, employees, affiliates, successors and assignees and all others acting in privity, concert or participation with Defendants, from:
 - (i). using any false designation of origin or false description which can or is likely to lead the trade or public, or individual members thereof, to mistakenly believe that any product advertised, promoted, offered or sold by Defendants is sponsored, endorsed, connected with, approved by, or authorized by Plaintiff;
 - (ii). assisting, aiding or abetting another person or business entity in engaging or performing any of the activities enumerated in sub-paragraph (i) above;
- D. Pursuant to 15 USC § 1118 (§ 36 of the Lanham Act), enter an order requiring Defendants and all of its principals, servants, officers, directors, partners, agents, representatives,

shareholders, employees, affiliates, successors, assignees and all others acting in privity, concert or participation with Defendants, who receive actual notice of said order, to deliver up all goods and products, signs, articles, items, and promotional, advertising, and any other printed materials of any kind bearing on Plaintiff's trademarks to the Court for destruction;

E. Pursuant to 15 USC § 1117(a), (§ 35 of the Lanham Act), award Plaintiff in excess of \$25,000, including, but not limited to, (1) the Defendants' profits, (2) any damages sustained by the Plaintiff, and (3) the costs of the action plus interest as a result of Defendants' infringements and unfair competition;

F. Pursuant to 15 USC § 1117(a), find that this is an exceptional case and award Plaintiff reasonable attorneys' fees;

G. Pursuant to 15 USC § 1117(b), award the Plaintiff three times the amount of actual damages or profits by virtue of the willful nature of the Defendants' acts.

H. Order an accounting by Defendants of any profits derived in any way from Defendants' wrongful acts.

I. Award such other and additional relief, at law or equity, as may be warranted by the facts and the law.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury for all claims properly heard by a jury.

Respectfully submitted,

MACMILLAN, SOBANSKI, & TODD, LLC

SPENGLER NATHANSON P.L.L.

/s/ Byron S. Choka

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Attorneys for Plaintiff BCP Imports, LLC

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

BCP IMPORTS, LLC

Plaintiff

v.

TRADITIONSJEWISHGIFTS.COM, INC.

Defendant

* Case No.: 3:10-cv-02430-JGC

*

* Hon. Judge James G. Carr

*

* **NOTICE OF DISMISSAL**

*

* **WITHOUT PREJUDICE**

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*

Plaintiff, BCP Imports, LLC ("Plaintiff"), by and through counsel, hereby dismisses its complaint against Defendant Traditionsjewishgifts.com, Inc. ("Defendant"), without prejudice, pursuant to Federal Rule of Civil Procedure 41(A).

Federal Rule of Civil Procedure 41(A) provides that a plaintiff may dismiss a complaint without a court order where the opposing party has not yet served an answer or motion for summary judgment. Plaintiff states that dismissal is appropriate in this case without a court order because Defendant has not yet filed a response to the Complaint.

Plaintiff further states that Plaintiff and Defendant have reached an amicable settlement in the matter.

Based upon Federal Rule of Civil Procedure 41(A), Plaintiff hereby dismisses its
Complaint against Defendant, without prejudice.

Respectfully submitted,

MACMILLAN, SOBANSKI, & TODD, LLC
SPENGLER NATHANSON P.L.L.

/s/ Byron S. Choka

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Attorneys for Plaintiff BCP Imports, LLC

Motion granted.
So Ordered.

S/ James G. Carr
United States District Judge

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of February, 2011, a copy of the foregoing instrument was placed in the United States mail, postage prepaid and addressed to the following:

TRADITIONSJEWISHGIFTS.COM, INC.
1850 N.W. 15TH Avenue, Suite # 220
Pompano Beach, Florida 33069

/s/ Byron S. Choka

Byron S. Choka, Esq.

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